

TIFFANY & BOSCO
P.A.

**SEVENTH FLOOR CAMELBACK ESPLANADE II
2525 E. CAMELBACK ROAD
PHOENIX, ARIZONA 85016
TELEPHONE: (602) 255-6000
FACSIMILE: (602) 255-0192**

Mark S. Bosco
State Bar No. 010167
Leonard J. McDonald
State Bar No. 014228
David W. Cowles
State Bar No. 021034
Attorneys for Secured Creditor
15-00220

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA**

Judith V. Brown

Debtor.

No. 2:12-bk-11597-GBN

Chapter 11

LIMITED OBJECTION TO CHAPTER 11 PLAN

Re: Property Located at
6259 East Horseshoe Road,
Paradise Valley, AZ 85253

The Bank of New York Mellon fka The Bank of New York as Trustee for the Certificateholders of CWMBS, Inc., CHL Mortgage Pass-Through Trust 2004-HYB5, Mortgage Pass Through Certificates, series 2004-HYB5, ("Secured Creditor"), by its attorneys, TIFFANY & BOSCO, P.A., hereby objects to the proposed Chapter 11 Plan (the "Plan") filed by the Debtor for the following reasons:

1. The Plan provides for an impermissible cram down of Secured Creditor's lien interest on the real property commonly known as 6259 East Horseshoe Road, Paradise Valley, AZ 85253.

1 2. Secured Creditor objects as the loan modification is under review and has not been
2 approved to date. Should the loan modification review be denied, Debtor must pay pursuant to the
3 existing loan documents. This is Debtor's primary residence, and may not be modified pursuant to
4 11 USC §1123(b)(5). 11 USC §1123(b)(5) provides in part:

5 Subsection (B) Subject to subsection (a) of this section, a Plan may...

6 Subsection (5) Modify the rights of holders of secured claims, other than a
7 claim secured only by security interest in real property that is the Debtors
8 principle residence...

9 Because the Plan attempts to modify the rights of Secured Creditor's claim secured by a lien
10 interest in the property, which is the Debtor's personal residence, the Plan violates 11 USC §
11 1123(b)(5) and therefore is not confirmable pursuant to 11 USC 1129 (a)(1).

12 WHEREFORE, Secured Creditor prays as follows:

13 (1) That the Plan be denied.

14 (2) For such other relief as this Court deems proper.

15 DATED this 30th day of January, 2015.

16 Respectfully submitted,

17 TIFFANY & BOSCO, P.A.

18 BY /s/ LJM #014228

19 Mark S. Bosco

20 Leonard J. McDonald

21 David W. Cowles

22 Attorneys for Secured Creditor

23 COPY of the foregoing mailed
24 January 30, 2015 to:

25 Judith V. Brown
26 6259 E. Horseshoe Rd.
Paradise Valley, AZ 85253
Debtor

FORAKIS LAW FIRM

346 E. Palm Lane
Phoenix, AZ 85004
Attorney for Debtor

Office of the U.S. Trustee
230 North First Avenue
Suite 204
Phoenix, AZ 85003
Trustee

By: *Gail Hardin*